

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/988

<u>Applicant</u>	:	Mr. TSOI Tak Lee represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	:	Lot 71 RP in D.D. 110, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 887m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) with Ancillary Office for a Period of Three Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) with ancillary office for a period of three years and filling of land at the application site (the Site), which falls within an area zoned “AGR” on the Kam Tin North OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is currently paved and fenced-off, largely vacant with some temporary structures erected (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed temporary warehouse is intended for storage of construction materials. The proposed use involves a single-storey structure for warehouse and ancillary office with a total floor area of about 886m² and building height of not exceeding 9m (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the entire Site with concrete with depth of 0.3m to a level of +7.4mPD for site formation (**Drawing A-2**). The proposed operation hours are from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. A parking space for medium goods vehicle is proposed on-site. The Site is accessible from Kong Po Road via a short

section of local track. The layout plan and paving plan submitted by the applicant are at **Drawings A-1** and **A-2**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary information received (Appendix I)
on 5.2.2024
- (b) Further Information (FI) received on 27.3.2024* (Appendix Ia)
** accepted and exempted from publication and recounting requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information and FI at **Appendices I** and **Ia**. They can be summarised as follows:

- (a) The proposed use is to fulfil the strong demand of warehouses in Yuen Long. Construction materials will be stored in the warehouse. The proposed development is temporary in nature and would not jeopardise the long-term planning intention of the “AGR” zone.
- (b) The structure would be enclosed on all sides and there will be no workshop activities within the site. It is anticipated that the noise and visual impacts on the sensitive receivers nearby are insignificant.
- (c) The Site has sufficient space for manoeuvring of vehicles. No parking, queuing and reverse movement of vehicles on public road would be needed. As the goods will stay at the Site for a long time, it is expected that the traffic induced by the development would be low and no significant adverse traffic impact is anticipated.
- (d) There are similar applications approved in the vicinity of the Site within the same “AGR” zone. The proposed development is in line with the decision of the Board.

3. **Compliance with the ‘Owner’s Consent/Notification’ Requirements**

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31B) by obtaining the land owner’s consent. Detailed information would be deposited at the meeting for Member’s inspection.

4. **Background**

The Site is currently not subject to any active planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in two previous applications (No. A/YL-KTN/765 and 809). Application No. A/YL-KTN/765 was for proposed house which is not relevant to the current application. Application No. A/YL-KTN/809 was for proposed temporary animal boarding establishment and filling of land, which was approved with conditions by the Rural and Now Town Planning Committee (the Committee) in January 2022, mainly on the considerations that temporary approval would not frustrate the long-term planning intention; the proposed development was not incompatible with the surrounding land uses; and the departments consulted generally in general had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permission under application No. A/YL-KTN/809 is valid until 28.1.2027.
- 5.2 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 20 similar applications for temporary warehouse use with filling of land within the same “AGR” zone in the vicinity of the Site in the past five years. All the applications were approved with conditions by the Committee between May 2022 and January 2024 mainly on the considerations that temporary approval would not frustrate the long-term planning intention or the proposed use on a temporary basis could be tolerated; the proposed development was not incompatible with the surrounding land uses; and the departments consulted in general had no adverse comment or their concerns could be addressed by relevant approval conditions. The planning permissions under application No. A/YL-KTN/824 and A/YL-KTN/898 were revoked in February 2024 and January 2024 respectively due to non-compliance with approval conditions.
- 6.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.
- 6.3 Other than the similar applications as stated in paragraph 6.1, applications No. A/YL-KTN/992, 993 and 995 also for the same use as the current application and within the “AGR” zone will be considered by the Committee at the same meeting.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:
- (a) currently paved and fenced-off, largely vacant with some temporary structures erected; and
 - (b) accessible from Kong Po Road via a short section of local track.
- 7.2 The surrounding areas are rural in character intermixed with open storage/storage yards, parking of vehicles, vacant land, farmland, orchard, an office (with valid

planning permission under application No. A/YL-KTN/974) and residential structures/dwellings (the nearest one is about 10m to the west).

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.
- 9.2 The following government departments do not support the application:

Agriculture and Nature Conservation

Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally vacant. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment from nature conservation perspective.

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) according to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as sensitive receivers, i.e. residential dwellings/structures are found in the vicinity of the Site (the nearest is about 10m to its west (**Plan A-2**)) and the proposed use will cause traffic of heavy vehicles, thus environmental nuisance is expected;

- (b) no comment on to the applied filling of land;
- (c) there was no substantiated environmental complaint concerning the Site received in the past three years; and
- (d) should the application be approved, the applicant should note his advisory comments in **Appendix IV**.

10. Public Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory publication period, two public comments were received from individuals objecting to the application mainly on the grounds that the proposed use may induce adverse traffic impacts and proliferate brownfield use.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) with ancillary office for a period of three years and filling of land at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Whilst the proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the proposed use on a temporary basis of three years could be tolerated.
- 11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department and DEP have no objection to or no comment on the applied filling of land from drainage and environmental perspectives. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character intermixed with open storage/storage yards, parking of vehicles, vacant land, farmland, and residential structures/dwellings. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that significant impact on the existing landscape resources within the Site is not anticipated and has no objection to the application from landscape planning perspective.
- 11.4 DEP does not support the application as the proposed use involves use of heavy vehicles and environmental nuisance is expected as there are sensitive receivers in the vicinity. In this regard, the access to the Site is via a short section of local track leading from Kong Po Road without passing through the residential dwellings/structures to the west of the Site. To address DEP’s concerns, approval

conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP to minimise possible environmental nuisance generated by the proposed use.

- 11.5 Other relevant departments including the Commissioner for Transport and the Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.6 There are 20 approved similar applications within the same "AGR" zone in the vicinity in the past five years as stated in paragraph 6.1 above. Approving the current application is in line with the Committee's previous decisions.
- 11.7 Regarding the public comments objecting to the application as mentioned in paragraph 10, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 5.4.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying and other workshop activities, shall be carried out on the site at any time during the planning approval period;
- (d) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.10.2024;
- (e) in relation to (d) above, the implementation of the drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 5.1.2025;

- (f) in relation to (e) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (g) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.10.2024;
- (h) in relation to (g) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.1.2025;
- (i) if any of the above planning condition (a), (b), (c), or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if any of the above planning condition (d), (e), (g) or (h) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (k) upon the expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with filling of land is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with supplementary information received on 5.2.2024
Appendix Ia	FI received on 27.3.2024
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Paving plan
Plan A-1	Location plan with previous and similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
APRIL 2024**